

REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 21-36 are pending in the present application. Support for new claims 21-36 may be found in the original claims and generally throughout the specification. Claims 1-14 have been canceled.

In the outstanding Official Action, the Examiner requested a copy of the declaration filed on August 21, 2001. Due to an apparent oversight, the declaration that was filed was not scanned into the Image File Wrapper for the present application. As requested by the Examiner, a copy of the declaration is attached with this amendment.

Claims 1 and 12 were rejected under 35 USC 102(b) as allegedly being anticipated by FOLENA-WASSERMAN et al. Applicants believe that the present amendment obviates this rejection.

In imposing the rejection, the Official Action alleged that FOLENA-WASSERMAN et al. taught that CHO cells could be cultured on a fluidized bed, with continuous perfusion of a medium that contained organic molecules such as glucose and methotrexate. The Official Action alleged that the cells would take up the glucose and methotrexate. In view of this

disclosure, the Official Action alleged that the continuous perfusion of the medium inherently would have resulted in the recycling of the medium.

However, applicants note that claims 21-36 are directed to a method for introducing at least one nucleic acid into one or more target cells, with the passage of a supernatant, wherein nucleic acids are originally maintained and passed through a collection of target cells. As FOLENA-WASSERMAN et al. do not disclose or suggest a method of introducing nucleic acids into target cells as set forth in the claimed invention, applicants believe that the publication fails to anticipate or render obvious the claimed invention.

In the outstanding Official Action, claims 1-12 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants believe that the present amendment obviates this rejection.

The Official Action alleged that claim 1 was indefinite for reciting the terms "comprising" and "comprises" within the same claim. The Official Action alleged that it was unclear as to whether the recited portion of the claim between the two transitional phrases was a part of a preamble or an actively recited process step.

However, as noted above, claim 1 has been canceled. Moreover, applicants believe that claims 21-36 have been drafted in a manner so as to obviate this issue. The recitations preceding the term "comprising" in claim 21 represent the preamble of the claim.

Claims 3, 4, 7, 8, 9, and 11 were rejected for reciting the phrases "such as" or "preferably". Claims 21-36 have been drafted so that these terms are no longer recited in the claims.

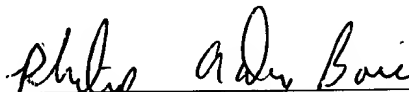
As a result, applicants believe that claims 21-36 are definite to one skilled in the art.

In view of the present amendment and foregoing Remarks, therefore, applicants believe that the present application is in condition for allowance. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

  
Philip A. DuBois, Reg. No. 50,696  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

PD/fb

**APPENDIX:**

The Appendix includes the following item(s):

- ☐ - a terminal disclaimer
- ☐ - a 37 CFR 1.132 Declaration
- ☐ - a new or amended Abstract of the Disclosure
- ☐ - a Replacement Sheet for Figure                      of the drawings
- ☐ - a Substitute Specification and a marked-up copy of the  
originally-filed specification
- ☐ - a verified English translation of foreign priority document
- ☒ - a copy of the declaration filed August 21, 2001